IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6176 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DURTIBEN. WD/O BHURASING NINAMA. THRO.POA JAGGUBHAI - Petitioner(s)

Versus

NATIONAL INSURANCE COMPANY LTD - Respondent(s)

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Appearance :

MS SM AHUJA :MS PRAGYA A JHA for Petitioner(s) : 1,
MS MEGHA JANI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 02/04/2007

ORAL JUDGMENT

1. **RULE**. Learned advocate Ms. Jani waives service of rule on behalf of the respondent. At the request of learned advocates the matter is taken up for final

hearing today itself.

2. By this petition, the petitioner has challenged order dated 14th November, 2006 passed by Commissioner for Workmen's Compensation Act, Surat in Distribution Application No. 27 of 2004. The applicant is the Power of Attorney Holder of Durtiben Bhurasing Ninama, who had filed the proceedings for obtaining compensation under the Workmen's Compensation Act for the accidental death of her husband. On application for compensation, the Commissioner by order dated 13th September, 2004, awarded total amount of Rs.4,23,561=00, out of which Rs.1,53,561=00 was permitted to be withdrawn by the applicant and the balance amount was ordered to be deposited in the Bank of Maharashtra, Athwalines, Surat. The said Drutiben suffered heart ailment and, therefore, she made an application for withdrawal of the amount, which was partly granted and Rs.1,00,000=00 was permitted to be withdrawn. However, considering the expenditure which she is required to incur for the treatment is fairly high, she made another application for withdrawal of the balance amount, which has been turned down by the Commissioner for Workmen's Compensation Act. She has, therefore, approached through Power of Attorney Holder by way of this petition.

3. Having perused the contents of the petition together with the documents annexed to it, and having heard Ms. S.M. Ahuja learned advocate for the petitioner and Ms. Jani learned advocate for the respondent insurance company, it clearly appears that the petitioner is in dire need of the finance to secure the medical treatment for heart ailment. This is the legitimate amount which she is entitled to have for her own purpose. If the petitioner is not allowed to withdraw this amount, there is every possibility that she may not be able to get good medial treatment and that may cause her tremendous physical hardships. In view of the same, and considering the genuine necessity, it is in the interest of justice that she be permitted to withdraw the balance amount from the bank so as to utilize it for her medical treatment. In view of the same, this petition is allowed. She is permitted to withdraw the balance amount from the aforesaid bank.

3.1. At this juncture, request is made by the learned advocate for the petitioner that since the petitioner is unable to move out of the house on account of her serious ailment, her brother the Power of Attorney Holder be given the draft for the amount by the Bank. The request

is granted. The Bank is directed to pay the amount by Demand Draft to Shri Jaggubhai Homlabhai Bhuria Power of Attorney Holder of the petitioner.

Rule is made absolute to the aforesaid extent. Direct Service is permitted.

[Akshay H. Mehta, J.]

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